



# COUNTY OF MONTEREY HEALTH DEPARTMENT

Elsa Jimenez, Director of Health

Administration  
Behavioral Health

Clinic Services  
Emergency Medical Services  
Environmental Health/Animal Services

Public Health  
Public Administrator/Public Guardian

May 30, 2017

SPCA Water System  
ATTN: Scott Delucchi, Executive Officer  
PO Box 3058  
Monterey, CA 93942

**RE: Compliance Order No. 17-011  
SPCA Water System, ID # 270-2370**

Dear Mr. Delucchi,

The California Health and Safety Code (H&SC), Section 116655, gives the Monterey County Health Department, Environmental Health Bureau, (EHB) authority to issue Orders directing compliance with the Health and Safety Code, Division 104, Part 12, Chapter 4 (a.k.a., the Safe Drinking Water Act), and with any permit, standard, or regulation issued or adopted pursuant to said Chapter. This Compliance Order directs the referenced water system to comply with State regulations and domestic water permit conditions by supplying specified documents and information.

The H&SC requires that a water system shall reimburse EHB for costs incurred in enforcement activities related to said system. Enforcement activities include preparing, issuing, and monitoring compliance with an order or citation; preparing and issuing public notification; and conducting a permit suspension or revocation hearing. Our costs, based on our current hourly rate, will be charged to the above water system for any further enforcement. If you have any questions regarding this compliance order, please contact this office at 755-4552.

Sincerely,

  
John Ramirez, M.P.A., R.E.H.S.  
Director, Environmental Health Bureau

Enclosure: Compliance Order No.17-011

Cc: Cheryl Sandoval, EHB  
Jan Sweigert, SWRCB

1                                   **MONTEREY COUNTY HEALTH DEPARTMENT**

2    TO:    SPCA Water System, ID # 270-2370  
3            ATTN: Scott Delucchi, Executive Officer  
4            PO Box 3058  
5            Monterey, CA 93942

6                                   **COMPLIANCE ORDER NO.17-011**  
7

8                                   **FOR**  
9            **VIOLATION OF HEALTH AND SAFETY CODE SECTION 116655 (a)(1)**  
10           **AND THE PRIMARY DRINKING WATER STANDARD FOR ARSENIC**  
11            **Dated May 30, 2017**

12   The Monterey County Health Department (hereinafter "Department"), acting  
13   through its Local Primacy Delegation Agreement hereby issues this compliance  
14   order (hereinafter "Order") pursuant to Section 116655 of the California Health and  
15   Safety Code (hereinafter "CHSC") and Section 64258 of the California Code of  
16   Regulations to SPCA Water System and its owner of record SPCA of Monterey  
17   County for violation of CHSC section 116555(a)(1) and Title 22, California Code  
18   of Regulations (hereinafter "CCR"), Section 64431.

19  
20   A copy of the applicable statutes and regulations is included in Appendix 1, which  
21   is attached hereto and incorporated herein by this reference.

22  
23   **STATEMENT OF FACTS**

24   Department is informed by the Water System and believes that the SPCA Water  
25   System (hereinafter "Water System") is a privately owned nontransient  
26   noncommunity water system located in Monterey County that supplies water for

domestic purposes to approximately 130 individuals through approximately 8 service connections, which include 2 residences and an animal shelter's staff and visitors. The Water System operates under Domestic Water Supply Permit No. 0220045, issued on February 20, 2004. The Water System is a nontransient noncommunity public water system as defined in CHSC, section 116275.

The Water System utilizes 1 groundwater well, Well 03, and as its source of domestic water. Title 22, CCR, Division 4, Chapter 15, Article 4, establishes primary drinking water standards and monitoring and reporting requirements for inorganic constituents. Nontransient noncommunity water systems must comply with the maximum contaminant level for arsenic of 0.010 mg/L, as established in Title 22 CCR Section 64431. This arsenic standard became effective on November 28, 2008. Well 03 exceeds the arsenic standard and the Water System installed an arsenic treatment plant. The treatment plant was approved and the bottled water notification was lifted on January 8, 2012.

Title 22, CCR, Section 64432.8 requires each water supplier utilizing treatment to comply with one or more MCL(s) in Table 64431-A shall collect monthly samples of the treated water. A sample collected from the Water System on April 27, 2016 showed an arsenic concentration of 0.022 mg/L in the treated water. The Water System notified users and the Department and started an investigation.

Section 64431 (i) provides that compliance with the arsenic MCL is based on a "running annual average" (RAA) of the quarterly monitoring samples, computed each quarter. A summary of the Water System's arsenic monitoring is presented in Table 1 below. All results are as reported to the Department by the laboratory that performed the analysis.

**Table 1: Treatment Plant (Arsenic Monitoring Results)**

Sample Month	Monthly Result Treatment Plant	Sample Quarter	Quarterly Average	Running Annual Average	
Oct-15	0.006 ug/L	4 <sup>th</sup> Q 2015	0.008 ug/L		
Nov-15	0.005 ug/L				
Dec-15	0.014 ug/L				
Jan-16	0.006 ug/L	1 <sup>st</sup> Q 2016	0.006 ug/L		
Feb-16	0.006 ug/L				
Mar-16	0.005 ug/L				
Apr-16	0.018 ug/L	2 <sup>nd</sup> Q 2016	0.017 ug/L		
May-16	0.017 ug/L				
Jun-16	0.015 ug/L				
Jul-16	0.011 ug/L, 0.020 ug/L	3 <sup>rd</sup> Q 2016	0.014 ug/L		0.011 ug/L
Aug-16	0.013 ug/L				
Sep-16	0.014 ug/L				

The 3<sup>rd</sup> quarter 2016 RAA for Treatment Plant, calculated as the four sample results averaged over a four quarter period, is 0.011 mg/L, which exceeds the arsenic MCL of 0.010 mg/L. Results of samples taken from water produced from Treatment Plant since 2016 show the RAA for arsenic in said Plant continues to exceed the arsenic MCL.

64 **DETERMINATIONS**

65 Based on the above Statement of Facts, the Department has determined that the  
66 Water System and its owner of record have violated CHSC, Section 116555 and  
67 Section 64431 in that the water produced by the Treatment Plant during the 3<sup>rd</sup>  
68 quarter of 2016 exceeded the arsenic MCL as shown in Table 1 above, and  
69 further has determined that said violation has continued from 3<sup>rd</sup> quarter of 2016  
70 and through the date of this Order.

71  
72 **DIRECTIVES**

73 Water System and its owner of record are hereby directed to take the following  
74 actions:

- 75 1. On or before March 31, 2017, comply with Title 22, CCR, Section 64431  
76 and remain in compliance.  
77
- 78 2. On or before June 30, 2017, submit a written response to the Department  
79 indicating its agreement to comply with the directives of this Order and with  
80 the Corrective Action Plan addressed herein.  
81
- 82 3. Commencing on the date of service of this Order, provide quarterly public  
83 notification in accordance with Attachment A, hereto, of Water System's  
84 failure to meet the arsenic MCL during any calendar quarter that the four-  
85 quarter running annual average exceeds the MCL.

87 3. Commencing on the date of service of this Order, submit proof of each  
88 public notification conducted in compliance with Directive No. 3, herein  
89 above, within 10 days following each such notification, using the form  
90 provided as Attachment B, hereto.

91  
92 5. Commencing on the date of service of this Order collect monthly samples  
93 for arsenic from the treatment plant, as required by Section 64432.8 and  
94 ensure that the analytical results are reported to the State Water Resource  
95 Control Board electronically by the analyzing laboratory no later than the  
96 10<sup>th</sup> day following the month in which the analysis was completed.

97  
98 6. Prepare for Department approval a Corrective Action Plan identifying  
99 improvements to the Treatment Plant designed to correct the water quality  
100 problem (violation of the arsenic MCL) and ensure that the Water System  
101 delivers water to consumers that meets primary drinking water standards.  
102 The plan shall include a time schedule for completion of each of the phases  
103 of the project such as design, construction, and startup, and a date as of  
104 which the Water System will be in compliance with the arsenic MCL, which  
105 date shall be no later than March 31, 2017.

106  
107 7. On or before June 30, 2017 present the Corrective Action Plan required  
108 under Directive No. 6, above, to the Department in person at the  
109 Department's offices located at 1270 Natividad Road, Salinas, California.

110

111 8. Timely perform the Department approved Corrective Action Plan and each  
112 and every element of said plan according to the time schedule set forth  
113 therein.

114

115 9. On or before September 30, 2017, submit a report to the Department,  
116 showing actions taken during the previous calendar three months to comply  
117 with the Corrective Action Plan.

118

119 10. Not later than ten (10) days following the date of compliance with the arsenic  
120 MCL, demonstrate to the Department that the water delivered by Water  
121 System complies with the arsenic MCL.

122

123 11. Notify the Department in writing no later than five (5) days prior to the  
124 deadline for performance of any Directive set forth herein if Water System  
125 and/or its owner of record anticipates it will not timely meet such  
126 performance deadline.

127 All submittals required by this Order shall be addressed to:

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129

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131

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135

136

Cheryl Sandoval, Supervising EHS  
Monterey County Health Department  
Environmental Health Bureau-DWPS  
1270 Natividad Rd.  
Salinas, CA 93906  
sandovalcl@co.monterey.ca.us

137 As used in this Order, the date of issuance shall be the date of this Order; and the  
138 date of service shall be the date of service of this Order, personal or by certified  
139 mail, on the Water System or its owner of record.

140

141 The Department reserves the right to make such modifications to this Order and/or  
142 to issue such further order(s) as it may deem necessary to protect public health  
143 and safety. Such modifications may be issued as amendments to this Order and  
144 shall be deemed effective upon issuance.

145

146 Nothing in this Order relieves Water System or its owner of record of its obligation  
147 to meet the requirements of the California SDWA, or any regulation, standard,  
148 permit or order issued thereunder.

149

#### 150 **PARTIES BOUND**

151 This Order shall apply to and be binding upon Water System, its owners,  
152 shareholders, officers, directors, agents, employees, contractors, successors, and  
153 assignees.

154

#### 155 **SEVERABILITY**


156 The Directives of this Order are severable, and Water System and its owner of  
157 record shall comply with each and every provision hereof, notwithstanding the  
158 effectiveness of any other provision.

159



**FURTHER ENFORCEMENT ACTION**

The California SDWA and the California Code of Regulations authorizes the Department to: issue a citation with assessment of administrative penalties to a public water system for violation or continued violation of the requirements of the California SDWA or any regulation, permit, standard, citation, or order issued or adopted thereunder including, but not limited to, failure to correct a violation identified in a citation or compliance order. The California SDWA also authorizes the Department to take action to suspend or revoke a permit that has been issued to a public water system if the public water system has violated applicable law or regulations or has failed to comply with an order of the Department; and to petition the superior court to take various enforcement measures against a public water system that has failed to comply with an order of the Department. The Department does not waive any further enforcement action by issuance of this Order.

  
John Ramirez, MPA, REHS  
Director Environmental Health Bureau  
1270 Natividad Rd. Salinas CA 93906

5-30-17  
Date

Certified Mail No. 7015 0640 0006 1561 8723

Cc: Cheryl Sandoval, EHB  
Jan Sweigert, SWRCB

# **APPENDIX 1**

## **APPLICABLE AUTHORITIES**

**CHSC, Section 116275 states in relevant part:**

(h) "Public water system" means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. A public water system includes the following:

- (1) Any collection, treatment, storage, and distribution facilities under control of the operator of the system that are used primarily in connection with the system.
- (2) Any collection or pretreatment storage facilities not under the control of the operator that are used primarily in connection with the system.
- (3) Any water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption.

(i) "Community water system" means a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents of the area served by the system.

(k) "Nontransient noncommunity water system" means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over six months per year.

**CHSC, Section 116555(a)(1) states in relevant part:**

(a) Any person who owns a public water system shall ensure that the system does all of the following:

- (1) Complies with primary and secondary drinking water standards.

**CHSC, Section 116655 states in relevant part:**

(a) Whenever the department determines that any person has violated or is violating this chapter, or any permit, regulation, or standard issued or adopted pursuant to this chapter, the director may issue an order doing any of the following:

- (1) Directing compliance forthwith.
- (2) Directing compliance in accordance with a time schedule set by the department.
- (3) Directing that appropriate preventive action be taken in the case of a threatened violation.

(b) An order issued pursuant to this section may include, but shall not be limited to, any or all of the following requirements:

- (1) That the existing plant, works, or system be repaired, altered, or added to.
- (2) That purification or treatment works be installed.
- (3) That the source of the water supply be changed.
- (4) That no additional service connection be made to the system.
- (5) That the water supply, the plant, or the system be monitored.
- (6) That a report on the condition and operation of the plant, works, system, or water supply be submitted to the department.

**Title 22, CCR, Section 64431 (hereinafter "Section 64431"), states in relevant part:**

Public water systems shall comply with the primary MCLs in table 64431-A as specified in this article.

**Table 64431-A  
Maximum Contaminant Levels  
Inorganic Chemicals**

<i>Chemical</i>	<i>Maximum Contaminant Level, mg/L</i>
Aluminum	1.
Antimony	0.006
Arsenic	0.010
Asbestos	7 MFL*
Barium	1.
<i>Chemical</i>	<i>Maximum Contaminant Level, mg/L</i>
Beryllium	0.004
Cadmium	0.005
Chromium	0.05
Cyanide	0.15
Fluoride	2.0
Hexavalent chromium	0.010
Mercury	0.002
Nickel	0.1
Nitrate (as NO <sub>3</sub> )	45.
Nitrate+Nitrite (sum as nitrogen)	10.
Nitrite (as nitrogen)	1.
Perchlorate	0.006
Selenium	0.05
Thallium	0.002

\* MFL=million fibers per liter; MCL for fibers exceeding 10 um in length.

Title 22, CCR Section 64432 (hereinafter "Section 64432") provides in relevant part:

### **Section 64432**

...

(g) If the level of any inorganic chemical, except for nitrate, nitrite, nitrate plus nitrite, or perchlorate, exceeds the MCL, the water supplier shall do one of the following:

(1) Inform the Department within 48 hours and monitor quarterly beginning in the next quarter after the exceedance occurred; or

(2) Inform the Department within seven days from the receipt of the analysis and, as confirmation, collect one additional sample within 14 days from receipt of the analysis. If the average of the two samples collected exceeds the MCL, this information shall be reported to the Department within 48 hours and the water supplier shall monitor quarterly beginning in the next quarter after the exceedance occurred.

(h) If the concentration of an inorganic chemical exceeds ten times the MCL, within 48 hours of receipt of the result the water supplier shall notify the Department and resample as confirmation. The water supplier shall notify the Department of the result(s) of the confirmation sample(s) within 24 hours of receipt of the confirmation result(s).

(1) If the average concentration of the original and confirmation sample(s) is less than or equal to ten times the MCL, the water supplier shall monitor quarterly beginning in the quarter following the quarter in which the exceedance occurred.

(2) If the average concentration of the original and confirmation sample(s) exceeds ten times the MCL, the water supplier shall, if directed by the Department;

(A) Immediately discontinue use of the contaminated water source; and

(B) Not return the source to service without written approval from the Department.

(i) Compliance with the MCLs shall be determined by a running annual average; if any one sample would cause the annual average to exceed the MCL, the system is immediately in violation. If a system takes more than one sample in a quarter, the average of all the results for that quarter shall be used when calculating the running annual average. If a system fails to complete four consecutive quarters of monitoring, the running annual average shall be based on an average of the available data.

#### **§64432.8. Sampling of Treated Water Sources.**

(a) Each water supplier utilizing treatment to comply with one or more MCL(s) in Table 64431-A shall collect monthly samples of the treated water at a site prior to the distribution system and analyze for the chemical(s) for which treatment is being applied. If the treated water exceeds an MCL, other than a nitrate, nitrite, nitrate plus nitrite, or perchlorate MCL, within 48 hours of receipt of the result the water supplier shall resample the treated water to confirm the result and report the initial result to the State Board. The result of the analysis of the confirmation sample shall be reported to the State Board within 24 hours of receipt of the confirmation result. For nitrate, nitrite, nitrate plus nitrite, or perchlorate treated water monitoring, the water supplier shall comply with the requirements of section 64432.1(a)(1) for nitrate, section 64432.1(b)(1) for nitrite, section 64432.1(c) for nitrate plus nitrite, and section 64432.3(d) for perchlorate.

#### **Section 64258. Enforcement.**

(a) A local primacy agency shall take enforcement actions as necessary to assure that all small water systems under the jurisdiction of the local primacy agency are in compliance with Division 104, Part 1, Chapters 4 and 5; Division 104, Part 12, Chapters 4 and 5 of the Health and Safety Code, and California Code of Regulations, Title 17, Division 1, Chapter 5, Group 4 and Title 22, Division 4, Chapters 14, 15, 15.5, 16, 17, and 17.5.

## **Attachment 1**

### **Public Notification Template**

# AN IMPORTANT NOTICE REQUIRED BY THE MONTEREY COUNTY HEALTH DEPARTMENT

Este informe contiene información muy importante sobre su agua potable.  
Tradúzcalo o hable con alguien que lo entienda bien.

SPCA WATER SYSTEM, I. D. 2702370

SUBJECT: **Arsenic Treatment Failure**

DATE: \_\_\_\_\_

This notification of all water consumers is being performed in compliance with the laws and regulations of the California State Water Resource Control Board and the Monterey County Environmental Health Bureau (EHB) to keep you fully informed about your drinking water. Chemical analyses indicate that the arsenic content in the water supply exceeds the maximum permissible level set by the State and Federal Drinking Water Regulations. The Water System has installed a treatment system for arsenic removal, but the treatment plant is currently failing and is unable to reduce arsenic to below the maximum allowed level.

The most recent arsenic test result collected from (site) \_\_\_\_\_ on \_\_\_\_\_ was \_\_\_\_\_ ppb.

**HEALTH REGULATIONS BEING VIOLATED:** Title 22, *California Code of Regulations*.

**MAXIMUM ALLOWABLE CONTAMINATION LEVEL (MCL):** 10 parts per billion (ppb)

**SIGNIFICANCE/RISKS OF ARSENIC:** Some people who drink water containing arsenic in excess of MCL over many years may experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.

**EHB IS RECOMMENDING THE USE OF BOTTLED WATER OR WATER FROM AN APPROVED SOURCE FOR DRINKING, COOKING, OR ORAL HYGIENE PURPOSES FOR ALL PERSONS ON THE SYSTEM. CARE SHOULD BE TAKEN IN HANDLING AND TRANSPORTING WATER TO PREVENT BACTERIOLOGICAL CONTAMINATION.**

**ACTION TAKEN TO CORRECT VIOLATION:**

SCHOOLS, OWNER OR OPERATOR OF RESIDENTIAL RENTAL PROPERTY, OR OWNER OR OPERATOR OF BUSINESS PROPERTY: Section 116450 of the California Health and Safety Code requires us to provide this notification of the following: Schools or school systems shall notify school employees, students, and parents if students are minors; owner or operator of residential rental property shall notify tenants; and owner or operator of business property shall notify employees. This notice shall be given within 10 days upon receipt of this notification.

Additionally, if a property owner sells property served by this water system, the seller is responsible for ensuring the buyers are informed of the current water quality and precautions to be taken

FOR FURTHER INFORMATION CONTACT: \_\_\_\_\_

CONTACT PERSON NAME

\_\_\_\_\_  
WATER SYSTEM NAME

\_\_\_\_\_  
PHONE #

THIS NOTICE IS TO REMAIN IN EFFECT UNTIL PROBLEM IS RESOLVED AND HEALTH  
DEPARTMENT GIVES CLEARANCE

## **Attachment 2**

### **Proof of Notification Template**



## PROOF OF NOTIFICATION

As required by Section 116450 of the California Health and Safety Code (H&SC), I notified all users of water supplied by the:

**SPCA Water System, 2702370**

of the maximum contaminant level (MCL) failure for Arsenic for the \_\_\_\_\_ Quarter of \_\_\_\_\_ yr. Pursuant to Section 116450(f) in any case where public notification is required because a contaminant is present in drinking water at a level in excess of a primary drinking water standard, the notification shall include identification of the contaminant, information on possible effects of the contaminant on human health, and information on specific measures that should be taken by persons or populations who might be more acutely affected than the general population.

Notification was performed on \_\_\_\_\_  
(Date)

via \_\_\_\_\_  
(method of distribution)